Govt. Z1-57—20.000—16-11-40

Development (1941) Department.

Ms. SERIES.

G.O. No. 1739

Dated 2-3-9-41

[Despatch Abstract.]

Co-operative Societies.

Execution - Anandashram Co-operative Housing Society Ltd South Kanara District - Claim No.1097/35-36 - Petition Section 57 of the Act by Mrs. Karnad Rama Bai - Against arbitration award - Rejected.

Dev. 15885 B/41

16.6.1941.

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS,

DEVELOPMENT DEPARTMENT, FORT ST. GEORGE,

15 JUN 1941

M A D R A S.-

PETITION OF.- Mrs. Karnad Rama Bai, wife of Mr. Karnad Viswesh var Rao, Burma Government Pensioner, "Sunny Seat" the Anandashram Co-operative Housing Society, Limited, Someshwar, U l l a l.-

REFERENCE.- Orders of the Joint Registrar, Co-operative Societies, Madras, in his R. C. No.8758/40F, dated the 27th. April 1941 - up-holding the decision of the Deputy Registrar, Co-operative Societies, South Kanara, Mangalore, in his Arbitration Reference No 1097/35-36, dated the 18th. August 1938.-

The Petitioner respectfully begs to state as follows:-

The petitioner is aggrieved at the decision passed by the Joint Registrar, Co-operative Societies, dismissing the appeal and up-holding the orders passed by the Deputy Registrar, for the following among other reasons

1.- In Paragraph 4 of his decision (Copy enclosed) the Joint Registrar remarks that the main contention of the petitioner is that the Society's claim is based on the strength of the General Body Resolutions framed so far back as 1929 which are clearly inconsistent with and in contravention of Bye-laws 36 (4) and 44 of the Society. Yet he has not taken the trouble to see if the statement made by the petitioner is correct or incorrect, but has summarily dismissed the appeal. Further, the original Bye laws have not been amended, altered or cancelled by the Subsidiary Bye-laws whence the original Bye-laws must be taken as subsisting which implies that the Subsidiary Bye-laws have become unenforcible. He has also not taken int consideration the fact that the said General Body Resolutions were got transformed into subsidiary Bye-laws only when the petitioner protested against reliance being placed upon the General Body Resolutions as such. This fact the petitioner clearly pointed out (Copies enclosed) to the Deputy Registrar as well as the Registrar and also that .-

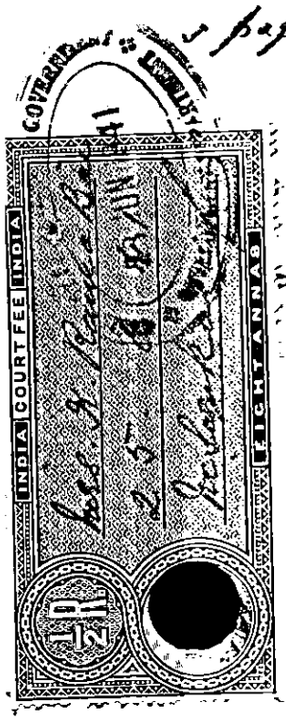
(a) The Notice convening the General Body Meeting did not mention that the Society intended to amend the origina Bye-laws or convert certain of the General Body Resolutions into Subsidiary Bye-laws;

(b) The draft of the proposed Subsidiary Bye-laws was not circulated amongst all members some of whom were residing even in South Kanara itself, much less elsewhere over the length and breadth of India and Burma;

(c) This irregular procedure accepted by the Society was immediately brought to the notice of the Deputy Registrar as well as the Registrar with a prayer that thei approval should be put off till objections to them --

(2)

to them were heard. Hence the approval of the -- Subsidiary Bye-laws by the Deputy Registrar and the action of the Joint Registrar in dismissing the appeal and up-holding the decision of the Deputy Registrar amounts to grave injustice to the petitioner.



2.- In Paragraph 9 the Joint Registrar points out that the Deputy Registrar has taken into consideration equitable aspects of the question. Had the Deputy Registrar gone carefully into the matter of equity he should have found out that :-

That there are members holding plots varying from half an acre to an acre and also that there are joint plots of husbands and wives in which case they have been taken as single lots for purposes of assessment under the -- water supply system. The Society has demanded the -- water cess as well as contribution towards capital outlay irrespective of the extent of holdings, so it cannot be said that the Deputy Registrar has gone into the equit able aspects of the question and the action of the Joint Registrar in dismissing the appeal and up-holding the decision of the Deputy Registrar amount to grave injustice to the petitioner.

3.- The petitioner holds fyrther that the action of the Society in getting the General Body Resolutions framed so far back as 1929 converted into Subsidiary Bye-laws when the question of validity of the same was under dispute inspite of their being inconsistent with and in contravention of the original Bye-laws of the Society cannot affect the vested rights of the -- members who question the validity of the same and even where they did they cannot have retrospective effect.

4.- The petitioner therefore prays that all connected papers in this matter be kindly called for and gone into, and in case it is found that the petitioner has a legitimate grievance, the orders of the Joint Registrar may be set aside.

5.-The petitioner further prays that lest the Society should take out execution proceedings against the petitioner, that orders be passed to stay such proceedings if instituted at the instance of the Society pending disposal of the present petition.

K Rama Bai

Dated Someshwar,

The 10th. June 1941.-

PETITIONER.-

Enclosure (A.)

R. C. No. 8758/40-F. Office of the Registrar, Co-operative Societies
Madras, 27th. A p r i l 1941.-

Sri. K. Rangaswami Nayudu, b. a.,
Joint Registrar.

Order under Section 57 of the Madras Co-operative Societies Act VI of 1932.-

Sub: - Arbitration - Anandashram Co-operative Housing Society, Ltd. - South Kanara District - decision in Claim No.1097/35-36 - appeal dismissed.

Read.- 1. Revision petition, dated 20-10-1940 from Mrs. Karnad Rama Bai,

2. Report E. 2171/40, dated 30-11-1940 from the Deputy Registrar, Mangalore,

3.- Memorandum of cross objections, dated 13-1-1941 filed by the Respondent society; a n d

4.- other records.

This is a revision petition filed by Mrs. K. Rama Bai against the decision of the Deputy Registrar, Mangalore, in claim No. 1097/35-36 on his file. The reference had been filed by the Anandashram Co-operative Housing Society, Ltd., against the petitioner for the recovery of the -- following amounts:-

1.- Rs. 200/- value of 4 shares with costs and interest.

2.- Rs.59/2/- the balance of premium due with interest till -- 30-6-1935 at 9% per annum with subsequent interest.

3.-Rs. 9/-/- mulgeni rent with interest at 12½ per annum.

2.- Item Nos. 2 and 3 were disallowed by the Deputy Registrar and in item No.1 only a sum of Rs.150/- was allowed on a point of equity.

3.- The parties were given an opportunity to represent their case in person. Both appeared through their advocates. The respondent Society has also filed a memorandum of cross-objections claiming also the amounts disallowed by the Deputy Registrar.

4.- The main contention of the petitioner is that the claim of the Society is based on the strength of the General body resolution framed so far back as 1929 and that they are clearly inconsistent with and in contravention of by-laws 36(5) and 44 of the society.

5.-The entire claim of the society was examined in detail by the -- Deputy Registrar. He has taken into consideration not only the legal points involved but also the equitable aspect of the question. It was on these grounds that he allowed only Rs. 150/- out of the total claim of the society. I entirely agree with the decision given by him and dismiss the appeal. I also do not see any reason to allow the claims disallowed by the Deputy Registrar.

Sd/- K. Rangaswami Nayudu
27-4-1941
Joint Registrar.

To the Petitioner, thro' Sri. T. Appaji Rao,
Advocate, "Sri Gopala Mandira", No. 8 Sullivan's garden Road,
Mylapore.

2.- the Society, thro' Sri. K. Vittal Rao, Advocate, 20 Thambu Chetty St.
Madras.

Copy to the Deputy Registrar, Mangalore.-

Enclosure (13).

From

Mrs. Karnad Rama Bai,

Share-holder & Resident Member of the Anandashram Co-operative Housing Society, Limited, Someshwar, Ullal.-

To

The Deputy Registrar, Co-operative Societies,

South Kanara, MANGALORE.-

REGISTERED.-

Dated Someshwar, the 27th. April 1936.-

Sir,

In enclosing herewith, a copy of my letter to the Hony.Secretary, the Anandasram Co-operative Housing Society, Ltd.,L. N. 333, -- Someshwar, together with a copy of the Notice of the Meeting of the General Body of Members, it will be evident that although the Agenda of the meeting was silent on the subject of converting some of the General Body Resolutions into Subsidiary Bye-laws and that there was sufficient time to circulate the draft of the same amongst the members, the notice of the -- meeting was in circulation from the 4th. April 1936 that the meeting was going to be held on the 19th. instant; and also that it was adjourned to a later date and was actually held on the 26th. instant, I consider that -- there was sufficient time to do so before they were read and passed at the General Body Meeting of Members held on the 26th. instant in spite of my protest. I therefore consider that this action has not been in the interests of the Society -- itself and also of its members in general as there are many non-resident members who also hold plots in the Colony area in different parts of the country viz: Bombay, Burma &c.

This matter had been the bone of contention at the various General Body Meetings and that therefore their action has not been in order A further reference with full details will be submitted on receipt of the copies of the Draft Report and the Subsidiary Bye-laws from the Secretary pending receipt of which the registration of the Subsidiary Bye-laws may kindly be held in abeyance.

Yours obediently

Sd/- --------

A copy of this has been submitted to the Registrar, Co-operative Societies, Madras, for information.

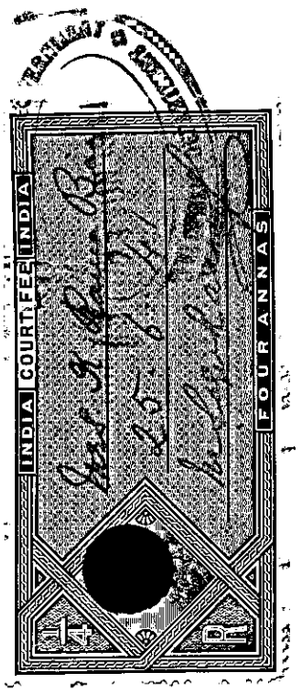
(True Copy)

— Enclosure (C) 9

N O T I C E.-

THE ANANDASHRAM CO-OPERATIVE HOUSING SOCIETY, LIMITED, SOMESHWAR,

U L L A L.-



Sir,

I beg to give you notice that the Annual General Meeting of the Society will be held at Someshwar in the Secretary's house at 3-35 p. m. on Sunday the 19th. April 1936. Your presence is earnestly solicited.

You are also requested to execute a Permanent Lease Deed a draft of which has been sent to you with the report for 1932.

The Audit Report for this year is available at the Secretary's office house.

A G E N D A.-

1.- Considering the Audit Report for the year 1934-35

2.- Consideration of any other matter for the betterment of the Society;

3.- Any other matter.

Sd/-

Hony. Secretary.-

1.- Mr. G. Somasheker Rao,

2.- " Kola Bhavani Rao

3.- " Saletur Amrith Rao

4.- " M. S. Ekambara Rao

5.- " Venkat Rao M. Katre

6.- " Mangesh Rao K. Katre

7.- " Shiva Rao N. Katre

8.- Mrs. Leela Bai Katre

9.- Mr. Ubhaya Gopalkrishna Rao

10.- Mrs. Saletur Leelava Bai

11.- Mr. Kaval Sadashiva Rao

12.- Mrs. Saveer Uma Bai

13.- Mr. Nirthady Venkat Rao

14.- Mrs. Ganga Bai S. Katre

15.- Mrs. Karnad Ratna Bai

16.- Mrs. G. Ratna Bai

May I know the No.& date of the letter if any, under which the Report was sent to me. Sd/. K. R. R. 4/4/36.-

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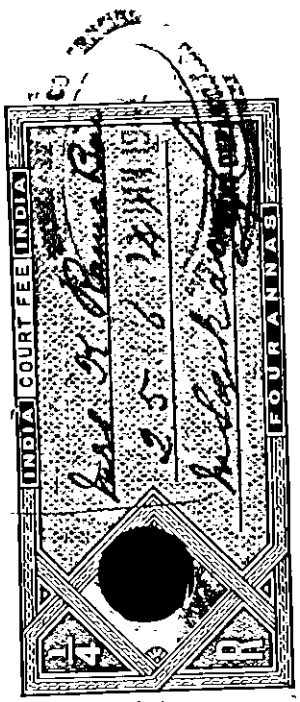
Enclosure (9)(1). 11



N O T I C E.-

THE ANANDASHRAM CO-OPERATIVE HOUSING SOCIETY, LIMITED, SOMESHWAR, ULLAL.-

---

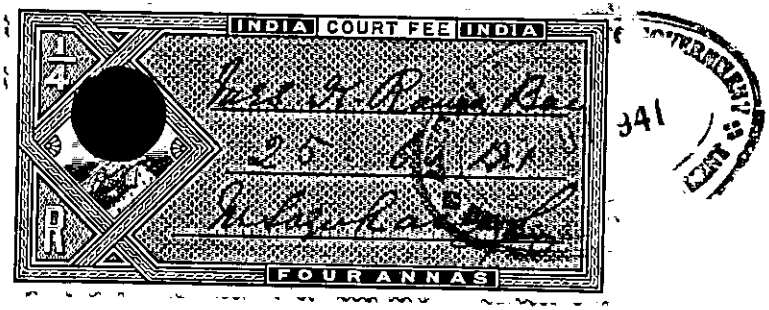
An adjourned meeting of the General Body of the above Society will be held on the 26th. April 1936 (Sunday) at 2 p. m. in the Ganapathy High School. The Agenda will be the same as that on the 19th. April 1936

Your presence is earnestly solicited.

Sd/- S. Amrith Rao,

Hony. Secretary .-

Enclosure (D)



13

From

Mrs. Karnad Rama Bai,

Wife of Mr. Karnad Visveshver Rao

"SUNNY SEAT"

The Anandashram Colony.

Dated Ullal the 27th. A p r i l 1936

To

The Secretary, the Anandashram Co-operative Housing Society Ltd.,

SOMESHWAR, U L L A L.-

Sir,

Will you kindly supply me with a copy of the Report as well as a copy of the draft subsidiary by-laws read and passed by the General Body of Members inspite of my protest. An early compliance will oblige.-

Yours faithfully,

Sd/- ---------

Enclosure. (D) 1)

15

THE ANANDASHRAM CO-OPERATIVE HOUSING SOCIETY, LIMITED, SOMESHWAR.-

Dated Someshwar, 29th, April 1936.-

Madam,

With reference to your letter dated the 27th. April 1936 requesting for a copy of the report and subsidiary bye-laws passed at the General Body meeting on 26-4-1936. I have to state that the Board of Directors have an idea of printing the report and the subsidiary Bye-laws for circulation to members when a copy will be supplied to you also. If however you desire to have a copy of these in the mean while you can arrange to take a copy from the records -- which I am prepared to make available to you. I regret that I cannot arrange to supply you with a copy as the documents are voluminous and we do not have a clerk to take copies.

Yours faithfully,

Sd/- ---------

Hony. Secretary.-

GOVERNMENT OF MADRAS

DEVELOPMENT DEPARTMENT.

Memorandum No.15885-B/41-1, dated the 17th June 1941.

Sub: CO-OPERATIVE SOCIETIES - Arbitration - Anandashram Co-operative Housing Society Limited - South Kanara District - Petition.

Ref: Petition from Mrs.Karnad Rama Bai, dated 10-6-1941.

--

A petition under section 57 of the Madras Co-operative Societies Act, 1932, should be affixed with court fee stamps of the value of Rs.1-8-0 and its enclosures with stamps of the value of annas eight for every three hundred and sixty words or fraction thereof. The petition submitted by Mrs. Karnad Rama Bai is returned for resubmission after compliance.

S. Chakravarthi,
Under Secretary to Government.

To Mrs. Karnad Rama Bai, wife of Sri Karnad Visveshvar Rao, Burma Government Pensioner, "Sunny Seat", The Anandashram Co-operative Housing Society Ltd., Someshwar, Ullal.

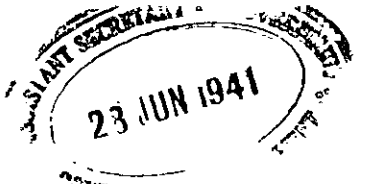
F o r w a r d e d.
(By order)

V.V.
Superintendent.

a.s.

(P. T. O)

18



RESUBMITTED duly complied with as directed.

17053
182

Dated Ullal,
The 26th. June 1941.

E K Rama Bai.
Petitioner.-

17

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS,

DEVELOPMENT DEPARTMENT, FORT ST. GEORGE,

MADRAS.-

MRS. KARNAD RAMA BAI,

"SUNNY SEAT" .

Dev. No. 17055/3
18/6/41

THE ANANDASHRAM CO-OPERATIVE HOUSING SOCIETY, LIMITED,

SOMESHWAR, ULLAL.-

Dated Ullal, the 26th. June 1941.-

SUBJECT.- The Anandashram Co-operative Housing Society Limited, Someshwar, Ullal.-

REFERENCE.- Petition dated the 10th. June 1941.-

The petitioner understands that after all, the Deputy Registrar has now ordered an inquiry to be held into the affairs of the Society under Section 38 of the Co-operative Societies Act 1932.

K Rama Bai

Petitioner.-

Dev

Memo No 17053-B/41-1 dated 30.6.1941

Co-operative Societies - Arbitration. Anandaraam Co-operative Housing Society Ltd. South Kanara District - decision in Claim No 1097/35-36 - Petition under section 57 of the Act.

VW/30/6 23/396

Pp 1-3 C.F

p. 649 of the M.H.B. Manual (not put up.)

The petition under section 57 of the Madras Co-operative Societies Act, 1932, submitted by Mrs Karnad Rama Bai is forwarded to the Registrar of Co-operative Societies for remarks with all the connected records.

Rlr 28/6/41. 28.6.

J 30.6.

Pp 1-3 C.F.

To the R. C. S. (with the petition in original to be returned with the reply).

R. 29.7.1941. 29/7.

N.R. 9.8.41

Co-operative DEPARTMENT.

Dev. No. 20633 B/41

In reply, please quote number, date and short title.*

Received ..... Registered 4.8.1941

ASSISTANT SECRETARY 4 AUG 1941 DEVELOPMENT

From (Name) S.A.Venkataraman Esq. I.C.S.,

(Designation) Registrar of Co-operative Societies

Post Box ....., (Station) Madras.

Telegraphic Address .....

To

The Secretary to Government,
Development Department, Madras.

Ref. No. 5033/41-1 dated 1-8-1941.

Sir,

* Sub:- Arbitration - Anandashram Cooperative Housing Society Ltd.,(South Kanara Dt) versus K.Rama Bai - Award in Cl.No. 1097/35-36- Ap l Rejection - Second appeal to Government.

Enclosures .....

..... * pp.21a above.

Ref:- From the Govt. Dev.Dept.Memorandum No. 17053-B/41-1 dated 30-6-41

Spare Copies .....

pp 1-3 above.

I resubmit the appeal petition of Shrimati.K.Rama Bai with the following remarks.

1. There is no point in her grievance that certain general body resolutions framed as far back as 1929 have since been incorporated into subsidiary rules. So long as the general body resolutions are not at variance with the objects and the by-laws of the society they cannot be objected to, merely because they have been passed some years ago. Similarly, there can be no objection to framing subsidiary by-laws on the resolutions actually passed by the general body in the past. The decision of the Deputy Registrar has discussed this point at length and has concluded that the general body resolutions were not at variance with the by-laws of the society. The Board of Directors is competent to frame subsidiary by-laws under by-law 27 of the society (copy not enclosed, as the fact can be verified from the records enclosed) There was no irregularity in the Board's framing subsidiary by-laws, on the lines of the previous resolutions of the general body. If this point was not stated explicitly in the order of the Joint Registrar rejecting the appeal, it was because it became unnecessary as it had fully been discussed in the Deputy Registrar's judgment and it was enough to refer to the discussion without repeating or summarising it.

2. As for points (a)(b) and (c) under paragraph I of the appeal, they are irrelevant, as the Board of Directors being fully competent to frame the subsidiary by-laws by itself, was not under any obligation to give notice of the subsidiary by-laws to the general body, etc., I may also state that the subsidiary by-laws in question are not inconsistent with the by-laws of the society. Nor can subsidiary by-laws seek to "amend, alter or cancel" the original by-laws , as the appellant believes; but can only supplement the original by-laws. The subsidiary by-laws framed by the Board have been duly approved by the Registrar and the Deputy Registrar after considering the objections raised by the appellant in 1936, and finding them untenable. The subsidiary by-laws are therefore quite in order and the appellant's contention that they are not, is based upon ignorance of the nature of and procedure relating to subsidiary by-laws.

3. As for the second point, namely that the Deputy Registrar's order is not based on equity, it is really

P.T.O

difficult to rebut or confirm such a statement. In matters of discretion like this, the proper and recognised procedure for an appellate authority is to deem that the lower authority had acted fairly and with due discretion, unless strong, prima facie evidence is adduced to the contrary, Apart from the fact that there is nothing in the appellant's statement to show that the Deputy Registrar's decision has resulted in grave injustice, I should like to point out the fact that the subsidiary by-law governing the point is specific and mandatory and runs thus;

" Members desirous of availing themselves of the water scheme of the society shall purchase a minimum of 5 shares in the society"

The Deputy Registrar's decision allowing only Rs. 150/- against the claim of Rs. 200/- under this specific by-law, does seem to be based on the sympathetic consideration of the appellant's case. I invite a reference to the last paragraph of the Deputy Registrar's judgment explaining the grounds on which he disallowed Rs. 50/- which the society might legitimately claim under the by-law The appellants' reference to the extent of the holdings is irrelevant as the recovery of the cost is not based on the extent of the sites some of which have not been utilised for the - construction of buildings.

4. Paragraph 3 of the appeal merely repeats the points in the first paragraph, which have already been discussed above.

5. I submit that the appellant has not made out any case for interference with the Deputy Registrar's decision, and suggest that her appeal may be rejected. I enclose, for reference and return the Arbitration file and files Nos.8758/40 and 5331/36 of this office.

2.8.41

For Registrar.

vk.2-8

Dew

23 / 1618 / 1618

Memo No 17053-B/41.2 dated 15-8-1941

Sub:- Co-operative Societies.
Arbitration. Anandashram
Co-operative Housing Society Ltd.
South Kanara Dist:- Petition.
Ref:- Letter from the R.C.S. B.C.
No 5083/41.2. dated 1.8.1941.

The Registrar of Co-operative Societies is requested to obtain and submit to the Government urgently a copy of the by-laws of the Anandashram Co-operative Society, and the draft lease-deed ~~which the petitioner usually has been asked to execute on his late~~ assignment of the plots to him and printed report of the Society for 1928-1930.

Dhd 16/8/41

To the R.C.S.
R. 28.8.1941.
N.R. 8.9.1941.

15/8/41 15/8/41

15.8

Dev 22356 B/41

20.8.1941.

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS,

DEVELOPMENT DEPARTMENT, FORT ST. GEORGE,

M A D R A S.-

REFERENCE.- Petition dated the 10th. June 1941 from Mrs. Kernad Rama Bai, "Sunny Seat" the Anandashram Co-operative Housing Society, Limited, Someshwar, Ullal.-

SUBJECT.- Orders of the Joint Registrar, Co-operative Societies, Madras, in his R, C. No.6758/40F, dated the 27th.April 1941 - upholding the decision of the Deputy Registrar, Co-operative Societies, South Kanara, Mangalore in his Arbitration Reference No. 1097/35-36, dated the 18th. August 1938.-

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That in the matter of the above petition, the petitioner begs to state as follows:-

1.- That the petitioner in Paragraph 5 of her main petition prayed that orders may be passed granting stay of proceedings regarding execution of the decree passed in the proceedings now before the Local Government -- pending final decision.

2.- That the petitioner has received a notice in S. E. P.564/41 of the Court of the District Munsiff, Mangalore, South Kanara District under Order 21 Rule 22, C. P. C. to show cause why execution should not be granted against the petitioner, and the Society, the decree holder, is evidently hurrying up to realise the amount decreed in its favour before final orders are passed by the Local Government on the above petition now pending decision.

3.- Apart from the hardships caused to the petitioner by the -- execution filed by the Society compelling the petitioner to pay the amount it will be very difficult to realise back the amount as the financial position of the Society is in a very bad condition as has already been reported; on the other hand the assets of the petitioner in the shape of buildings erected and other improvements affected on the plot which are free from any sort of encumbrances will be amply surficient for the Society to realise the amount if the claim is ultimately decided in favour of the Society.

Under the circumstances and in the interest of justice the petitioner prays that the Local Government may be pleased to grant stay of the execution of the decree claim in No. 1097/35-36 passed by the Deputy Registrar, Co-operative Societies, dated the 18th. August 1938 and confirmed by the Joint Registrar, Co-operative Societies, Madras, as per orders in his No. R.C.8758/40F, dated the 27th. April 1941.

K Rama Bai

Dated Ullal,
The 17th. August 1941.-

petitioner.-

9
27/8

Dev

Mem No 17053-B/413 dated 22.8.41

Sub:- Co-operative Societies-
Arbitration - Anandarhram
Co-operative Housing Society Ltd.
South Kanara Dist - Petition.

p.27 C.F Ref:- Mrs K. Rama Bai No Nil
dated 17th August 1941.

A copy of the letter
from Mrs K. Rama Bai dated
p.27 C.F 17th August 1941 is forwarded to
the Registrar of Co-operative Societies

2. The Registrar is
requested to stay proceedings
against the petitioner till
* p.1-3 C.F her petition dated 10.6.1941
is disposed of by the Government.

To the R. C. S.
(with a copy of p.27 C.F)

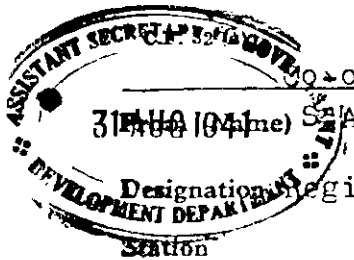
Dy Secretary Ends
D. 27/8

27/8

Rk 20/8/41

hm 20.8.41

S. M.



Co-operative Department

From (Name) S.A.Venkataraman, Esq, I. C. S.

Designation Registrar of Co-op. Socs.

Station M a d r a s.

Dev. № 23488 B/41

Received Registered

1. 9. 1941.

To The The Secretary to Government

Development Department.

Madras.

Enclosures: R.C. No. 5083/41-L dated 29---8---1941.

Sub: Arbitration--Anandashram Cooperative Housing Society Ltd--South Kanara district--Claim No.1097/35-36--Appeal to Government by Mrs.Karnad Rama Bai.

Ref: Government memorandum No.17053-B/41-3 dated 22-8-1941.

Since the execution proceedings, the stay of which has been directed in the memorandum cited above, are before the District Munsif, Mangalore, I am not competent to issue any order of stay to the court. I have, therefore, directed the Deputy Registrar, Mangalore, to advise the decree holder society forthwith to stay all further action in the matter pending the disposal by Government of the appeal preferred by the petitioner. I have no reason to suppose that the society will act contrary to such advice. If the petitioner wants effedtively to stay the execution proceedings, Government may furnish her with a memorandum acknowledging the fact that her appeal under section 57 of the Madras Cooperative Societies Act VI of 1932 for revision of the award in claim No.1097/35-36 on the file of the

p.t.o.

32

-2-

Deputy Registrar, Mangalore, is under their consideration and authorising her to use the document for the purpose of bringing that fact to the notice of the court through her advocate with a view to obtaining stay of further proceedings.

A

For Registrar. 30 Pm

RS 30/8

30/8

Dev

Memo No 17053-B/41-4 dated 4.9.41.

Sub: Co-operative Societies-
Arbitration- Anandashram
Co-operative Housing Society Ltd.
South Kanara district- Claim
No 1097/35-36- Appeal to Govt.
by Mrs. Karnad Rama Bai

Ref:- Letter from Mrs. Karnad
page 2 C/F Rama Bai No nil. dated 17.8.41.

Mrs Karnad Rama Bai is informed that her appeal* dated 11th June 1941 under section 87 of the Madras Co-operative Societies Act VI of 1932 for the revision of the award in claim No 1097/35-36 on the file of the Deputy Registrar, Mangalore, is under the consideration of Government. If it is open to her to be advised she may move the Court for the stay of the proceedings till her appeal is disposed of by the Government.

* pp 1-3 C/F

@ p. 64 of the L.M. Bai Manual (Sec No 24 w by Sept Shelf)

Dpd 4/9/41.

1/9/41.

3.9

To Mrs. Karnad Rama Bai,
"Sunny Seat"
The Anandashram Co-operative
Housing Society Ltd
Somaleswar
Via
South Kanara

Copy to the R.C.S.

C.F. 32 (a).

Dev. № 23854 B/41

Co-operative Department

Received 3.9.41. Registered

From (Name) S.A. Venkataraman, Esq., I.C.S.,
Designation Registrar of Co-operative Societies,
Station Madras.

To
The Secretary to Government,
Development Department,
Fort St.George.

GOVERNMENT 3 SEP 1941 DEVELOPMENT DEPARTMENT

Enclosures:

R.C. No. 5083/41-L dated 2nd Septr.41. 194 .

Sir,

Sub: Arbitration - Anandashram co-operative housing society Ltd.- South Kanara District - Claim No. 1097/35-36 - Appeal to Government by Mrs. Karnad Rama Bai.

Ref: Govt. Memorandum No.17053-B/41-2, dated 15-8-41.

A copy of the by-laws of the society is enclosed. The draft lease deed in use at the time of the assignment of the plots to the petitioner is printed as Appendix C at page 10 of the society's report for 1928-30, which is also enclosed.

for Registrar.

Tvm/2.9.41.

Rev.

Subj:- Co-operative Societies - Arbitration - Anandashram Co-operative Housing Society Ltd - Smt. Kanara Dist. versus K. Rama Bai - Award in Claim No. 1097/35-36 - Petition.

C. No. 17053-B/41.

-5.-3 C.F — Petition from Mrs. K. Rama Bai Rg. N.L. dated 10.6.41

page 21 C.F — Memo to the R.C.S. No. 17053-B/41 dated 30.6.41

ff 23 24 C.F — From the R.C.S. R.C.No. 3083/41-d. dated 1.8.41

To U.S.

ff 1-3 C.F — The file relates to a petition presented

(64 of Mad. M.Bs. Manual (Rule 24 as by Sup. 21-4) — under section 57 of the Madras Co-operative Societies Act by me Mrs. Kannad Rama Bai, a member of the Anandashram Co-operative Housing Society, against the orders of the Joint Registrar of Co-operative Society dismissing the petition filed by her and upholding the order passed by the Deputy Registrar, Mangalore, in an arbitration reference filed by the above Society.

(*) pages 67-69 of the Regulations filed at (U)

page 1 of (U)

2. The Ananda Ashram Co-operative Housing Society Ltd. which was registered on 4.6.1928 as a building Society, purchased land divided them into plots for assignment to members developed a water-system by sinking wells and erecting a reservoir and facilities for supplying water to the members at their door. The Society so far as the lands and buildings are concerned is based on the tenancy ownership system.

page 59 of (T) (Dt. filed C... in 1097/35-36)

page 42 in ff 59 of (T)

The lands are owned by the Society and the patta is in its name and the plots are assigned to its members on payment of premium.

3. On 26.3.1936, the Society filed an arbitration reference under Section 51 of the Madras Co-operative Societies Act, before the Deputy Registrar, South Kanara against me & its members. Mrs. K. Rama Bai, the present petitioner, in the recovery of the following :-

(1) Rs 200 value of 4 shares with costs and interest;

(2) Rs 59-2-0 the balance of premium due with interest till 30.6.1935 at 9% with subsequent interest; and

(3) Rs 2-0-0 mulgeni rental with interest at 12½%.

pages 59 - 65 of (T)

pp 61-63 of S.M.B's Memorial (Exhibit 20 in by Engr Shetty)

As per rules of the Society, the members who wanted to avail themselves of the convenience of the water system were required to purchase a minimum of 5 shares including the one which they had to purchase at the time of their admission; one share being the minimum qualification for the admission of a member, and the value of each share is Rs 50. The 1st item of Rs 200 was the amount claimed by the Society in respect of the 4 shares as the petitioner was asked to have made use of the water, supplied by the Society upto 1-5-1935. Second item related to the balance of premium due from her in respect of the plot assigned to her and the last item was the mulgeni rental due to the plaintiff Society.

Pl of A' para 8 of (U)

Pl also of A' para 4 & 5 of the Society's report of 19-2-[illegible]

paragraph 18 on p. 64 of (T)

paragraph 16 on p. 64 of (T)

paragraph 17 on p. 64 of (T)

p. 5 of (T) The entire claim of the Society was examined in detail by the Deputy Registrar. The

pages 231-238 of (T) judgment given by the Deputy Registrar describe

" pp 59-65 of (T) in detail the points raised by both the plaintiff

" pp 88 & 89 of (T) Society and the defendant (the petitioner), and the main issues and findings on each of these issues were also explained at full length

pp 231-238 of (T) in the judgment. The Deputy Registrar took

para 9 (4) (3) on pp 237-238 of (T) into consideration not only the legal points involved but also the equitable aspects of the

question. Item No (2) & (3) on page 2 above were disallowed by the Deputy Registrar and in item

(1), only a sum of Rs 150 was allowed on a point of

p. 239 of (T) equity. And thus the suit was decreed on 25-8-1938 against the petitioner for Rs 750 with

interest thereon at 6¼ % from the date of plaint (i.e), 25-3-1936.

v page 1 of the Registrar's file at (T) Against this decision the submitted a petition

to the Registrar of Co-operative Societies under sec.

& pp 64 & 65 of the Memorandum of appeal 57 of the Act on 29-10-1940. The Joint Registrar

after examining the case, entirely agreed with

the decision given by the Deputy Registrar and

v pp 67-69 of the Registrar's file at (U) dismissed the petition.

(-do-) 4. Against this order, Sri K. Rama Rao

& pp 1-3 of C.F. has submitted a petition to the Government.

The Registrar's remarks on the petition are on

v pp 1-3 of C.F. pages 23-24 C.F. ~~The petition is chiefly against~~

~~that portion of the Deputy Registrar's order wherein~~

P.T.O

The petitioners' complaint is (1) that the subsidiary bylaws laying down the condition of assignment of land etc. to members passed in 1936 were invalid as they were inconsistent with the bylaws of the society, and (2) that even if they were valid, they cannot have retrospective effect. The Registrar has pointed out that the subsidiary bylaws are in order. The second point is relevant with reference to the decree of the Deputy Registrar against the petitioner. The Dy. Registrar has ordered her to pay Rs. 150 for using the water system of the society. This claim was made on a rule made by the society requiring members to take four shares if they want to avail the water system erected by the society. This rule was subsequently made into a subsidiary bylaw in 1936 without any retrospective effect. The petitioner presumably argues that this bylaw would not affect her as she used the water system before the bylaw was framed and passed and he had paid for the use of the water. The Registrar has not met this point. The Deputy Registrar in his judgment has not also argued the point. But it is stated that the petitioner was aware of the rule and that it is binding on her ~~and has the sanction of the General Body~~.

For orders on the petition.

Pl. call for a copy of the plans of the society & draft lease-deed.

13.8.

A draft Memo is submitted for approval.

15.8.

[Issued as Memo No. 17058-B/41-2 dated 15.8.1941]

[From Secy. to Govt. Rev. Dept. dated 17.8.1941]

Dev.

To A.S.

pp 21 C.F. The petitioner has requested that the Government may grant stay of the execution of the decree passed by the Deputy Registrar against the petitioner till her petition dated 10.6.1941 is disposed of by the Government. There seems no objection to grant the request of the petitioner. Subject to orders a draft Memo is submitted for approval.

Rk 20/8/41. Dm 20.8.41

8.8.41

page 29 C.F. [Memo to the R.C.S. No 17053-B/41-3 dated 22.8.194

pp 31 32 C.F [From the R.C.S. R.C. No 5083/41-A. dated 29.8.41

To A.S

The reply from the Registrar to the Memo at page 25 C.F. is awaited till 8.9.1941.

2. Portion marked A in the Registrar's letter at pages 31-32 C.F.:

Subject to orders, a draft Memo is submitted for approval.

Rk 2/9/41.

3.9.41

D.S.

Lk 2.9.41

4/9

page 33 C.F [Issued as Memo to Sri K. Rama Rai No 17053-B/ dated 4.9

A/42

[From the R. C. S. R.C No. 5083/41-L dated 2.9.41] Page 3 ante F

To U.S.

Attention is solicited to the notes at pages 1 to 4 above.

Copies of the by-laws of the Anand-Ashram Co-operative Housing Society Ltd and of the draft lease deed and printed report of the Society for 1928-1930 have since been obtained and put up. Attention is solicited to the portions marked A at pages 4 to 5 and 10 of the Society's report. From the lease deed on pages 10 to 11 of the Society's Report it appears that the petitioner is bound ~~on~~ by the resolutions of the General Body of the Society.

* to be found at pages 'A' put up

put up.

2. For orders on the petition.

Rh
5.9.41.

MM
5.9.41.

The petition has been examined in the notes at pp. 1-4 N.F. The points raised therein have been fully met by the Repr. in his remarks at pp. 23-24 C.F. The only point that has not been met is the one stated at A on p. 4 N.F, but on this, ~~the~~ condition 1 of the lease deed is conclusive. The appellant has no case at all. The appeal may be rejected.

A on p. 4 of the foregoing report - Put up

8.9.41

J
6.9.41
D.S.

17053 B/41

There is no case for interference.
Reappeal may be rejected.

Pl Cm 18.9.41

C. 18.9.41
With Report
R. 22.9.41

Declined accordingly

19

To U.S

A draft order is submitted for approval.

22.9.41.

23.9.41

22.9.41

P.A.S.C.F Issued as G.O. No 1739 (Vth), Dev. dated 23.9.1941

36/23/9

C.F. 16.

DRAFT FOR APPROVAL.

Aw

	Date.	Initials.
When received for fair copying ..		
When copied ..	Noted 23/9/41	
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Co-operative Societies. Execution - ~~Arbitration~~ Anandashram Co-operative Housing Society Ltd. South Kanara Dist. Claim No 1097/35-36. Petition under Section 57 (i) (k) of Act By Mrs Kannad Rama Bai - ~~Rejected~~ against Arbitration award. Rejected

READ AGAIN _____, dated ~~Firm award. Rejected~~ 19

" " _____ " _____ 19

READ *ALSO*:—

C. No. 17053-B/41. From the Mrs. Kannad Rama Bai, No. Nil., dated 10.6.1941 ff 1-3 C.F.

" _____ Memo to the B.C.S. " 17053-B/41-1 " 30.6.1941 f 21 C.F

" _____ Memo the R.C.S. RC. 5083/141-L. " 1.8.1941 ff 23-24 C.F

Order ~~Resolution~~ Ms. No. 1739, dated 23/9/41 19

Bi note at page 7 N.F

✓

To Mrs Kannad Rama Bai.
"Sunny Seat"
The Anandashram Co-operative Housing Society Ltd.
Someshwar Hall.
South Kanara Dist.

To the R. C. S. (with enclosures returned).
(Receipt to follow)

The Government decline to interfere. ~~The petition is~~ rejected.

Pls 22.9.41.

22.9.41

23.9